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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,509	11/24/2003	Stanley Ho	794601-2097	4595
7590 05/26/2005 FROMMER LAWRENCE & HAUG LLP 745 FIFTH AVENUE NEW YORK, NY 10151			EXAMINER MAH, CHUCK Y	
			ART UNIT 3676	PAPER NUMBER

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/720,509	<b>Applicant(s)</b> HO, STANLEY	
	<b>Examiner</b> Chuck Mah	<b>Art Unit</b> 3676	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Double Patenting***

1. Claims 1-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,698,061 in view of Markward (2,705,385) for the same reasons as stated in last office action.

### ***Response to Arguments***

2. Applicant's arguments filed Apr. 7, 2005 have been fully considered but they are not persuasive.

First, the examiner agrees that the amended claims overcome the rejections under 35 U.S.C. 112 ¶2. The examiner, however, would like to address his position regarding the term "receiving means". The examiner disagrees with applicant's argument that the term "receiving means" is not unclear as the claims must be read in light of the specification. In order to invoke a 35 U.S.C. 112 ¶ 6 interpretation, a 3-prong analysis is applied: (1). the claims must use the phrase "means for" or "step for", (2). the "means for" or "step for" must be modified by functional language, and (3). the "means for" or "step for" must not be modified by sufficient structure, material, or acts for achieving the specified function. (see *In re Donaldson Co.* 29 USPQ2d 1845 (Fed. Cir. 1994)). Any claim not complying with (1)-(3) above would not be considered to invoke 35 U.S.C. ¶6. In this case, applicant's claim may have the wording of "means". However, "receiving means" carries none of the (1)-(3) mentioned above. Therefore "receiving means" is not given a 35 U.S.C. ¶6 consideration. That is, "receiving means" must not be read in light of the

specification but must be given a broadest reasonable interpretation. Second, based on the broadest reasonable interpretation, it is apparent that any one of the "soap dish" for receiving a soap and "flange 29" (hook-shape shown in fig. 7) for receiving a soap dish would meet the "receiving means" as claimed. Further, applicant's argument directed to the detachability of Markward is irrelevant since the rejection is based on a combination of Ho '061 and Markward '385 whether it would be obvious to modify the hook of '061 with a receiving means of '385, not whether it would be obvious to make the coupling means detachable from the attachment means.

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Mah whose telephone number is (571)272-7059. The examiner can normally be reached on 5/4-9.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571)272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Chuck Mah  
Primary Examiner  
Art Unit 3676

CM